

Notice of Allowability

Application No.

10/712,265

Examiner

Laura C. Hill

Applicant(s)

BURTON ET AL.

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief filed 21 September 2006.
2. ☒ The allowed claim(s) is/are ~~1-15~~ 1-15, 17-28
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>2/16/05</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Zele on 21 November 2006.

Please **change the title** to the following:

Medical Vacuum Aspirator Device Having Removable Valve Housing

In Claim 1, line 8

Please insert --a hinge about which the first housing portion pivots relative to the second housing portion;-- before "means for removably attaching..."

In claim 15, line 6

Please insert --portion-- before "cooperate to define a housing..."

In Claim 16, line 9

Please insert --a hinge about which the first housing pivots relative to the second housing portion;-- before "a fluid conduit retained..."

In Claim 28, line 6

please delete ";" and replace with
--,wherein the housing comprises first and second housing portions;

a hinge about which the first housing portion pivots relative to the second housing portion;

means for removably attaching the first housing to the second housing portion--
Please **cancel claim 16**.

REASONS FOR ALLOWANCE

Response to Arguments

Appellant's arguments filed in the Appeal Brief dated 21 September 2006 have been fully considered and are persuasive. The rejection of the claims has been withdrawn and thus prosecution on the case has been reopened.

Information Disclosure Statement

It is noted that FR 1,077,898 and EP 0150666A foreign documents listed on the IDS filed 16 February 2005 that were not previously considered have been considered by the Examiner.

Claims 1-15 and 16-27 allowed.

The following is an examiner's statement of reasons for allowance: the art of record does not fairly disclose or suggest a medical vacuum aspiration device comprising a valve comprising: a removable fluid conduit, a valve housing that *removably* holds at least a portion of the fluid conduit; a hinge about which the first housing *pivots* relative to the second housing portion; and an actuator for controlling a suction path suitable for separating after use and facilitating easier sterilization.

The following is the closest art not previously cited:

Boudreault et al. (US 5,186,714) discloses surgical instrument 1 with removable and interchangeable suction and irrigation cartridge 20 (column 6, lines 56-59) for easy sterilization (column 8, lines 1-3); holder/valve housing 10 made of two symmetrical plastic parts that are detachably connected either by a screw or by snapping/releasable connector means (column 4, lines 55-64, figure 1); actuator/push buttons 29, 30 that stop the suction or irrigation (column 5, lines 8-13, column 6, lines 51-53). Boudreault does not disclose or fairly suggest a hinge in which the housing portions pivot since the housing portions since they clamp on directly to suction cartridge 20 and cannot pivot since they maintain a stationary configuration (figure 1).

Devlin et al. (US 5,300,043) discloses aspiration catheter system 1 with valve assembly 3 having upper and lower/first and second housing portions 30, 31 encasing the valve assembly (column 3, lines 8-49) and actuator 60 (column 3, line 65-column 4, line 3, figures 1-2) but no removable housing portions with a pivoting hinge.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (hours vary).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C. Hill
Examiner
Art Unit 3761

LCH



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

